

APPENDIX F. Key Legislation and Policies

This appendix contains a list of the more pertinent Acts of Congress, Executive Orders, Washington State laws, and other documents that are relevant to the acquisition, administration, and management of Steigerwald Lake, Franz Lake, and Pierce National Wildlife Refuges. The brief summaries provided are for informative purposes only and are not intended as legal interpretations. The entire Act, Executive Order, or document should be referenced for more detail.

Federal Acts and Public Laws

American Antiquities Act of 1906 (16 U.S.C. 431-433) This Act made it illegal to appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without appropriate permission.

Americans with Disabilities Act of 1980 (Public Law 101-336) This Act is a wide-ranging legislation intended to prohibit discrimination based on disability in employment, government services, public accommodations, transportation, and telecommunications. Title III requires all new construction and modifications be accessible to individuals with disabilities. For existing facilities, barriers to services must be removed if readily achievable.

Anadromous Fish Conservation Act of 1965, as amended (16 U.S.C. 757a-757g) Authorizes the Secretary of the Interior and Commerce to enter into cooperative agreements with states and other non-Federal interest for conservation, development, and enhancement of anadromous fish and contribute up to 50 percent as the Federal share of the cost of carrying out such agreements. Reclamation construction programs for water resource projects needed solely for such fish are also authorized.

Archeological and Historic Preservation Act of 1974 , as amended (16 U.S.C. 469-469c) This Act amends the Reservoir Salvage Act of 1960 requiring Federal agencies to notify the Secretary of Interior whenever they find a Federal or Federally assisted, licensed, or permitted project may cause the loss or destruction of a significant scientific, prehistoric, or archaeological data. The Act directs “The Secretaries of Interior, Agriculture, and Defense to ... (a) develop plans for surveying lands under their control to determine the nature and extent of archaeological resources on those lands; (b) prepare a schedule for surveying lands that are likely to contain the most scientifically valuable archaeological resources.”

Archaeological Resource Protection Act of 1972 (16 U.S.C. 470aa-470ee) This Act strengthens and expands the protective provisions of the Antiquities Act of 1906 regarding archaeological resources. It also revised the permitting process for archaeological research.

Bald Eagle and Golden Eagle Protection Act of 1972 , as amended (16 U.S.C. 688-688d) No person of the United States shall possess, sell, purchase, barter, offer to sell, transport, export, or import, at an time in any manner, any bald eagle or any golden eagle, alive or dead, or part, nest, or egg. The Secretary of the Interior can permit taking, possessing, and transporting specimens for scientific or exhibition purposes of for the religious purposes of Indians.

Clean Air Act (1970), and 1977 amendments (42 U.S.C. 1857-1857f) The Clean Air Act is a comprehensive Federal law that regulates air emissions from area, stationary, and mobile sources. This Act and its amendments charge Federal land managers with direct responsibility to protect the “air quality and related values” of lands under their control. These values include fish, wildlife, and their habitats.

Clean Water Act (1987), as amended (33 U.S.C. 1251-1387) This Act and its amendments has as its objective the restoration and maintenance of the chemical, physical, and biological integrity of the Nation’s waters. Section 401 of the Act requires that Federally permitted activities comply with the Clean Water Act standards, state water quality laws, and any other appropriate state laws. Section 404 charges the U.S. Army Corps of Engineers with regulating discharge of dredge or fill materials into waters of the United States, including wetlands.

Columbia River Gorge National Scenic Area Act (16 U.S.C. 544) On November 17, 1986 President Reagan signed Public Law 99-663 which designated 292,000 acres of the Columbia River Gorge as a National Scenic Area Act created a partnership among federal, state and local governments for the purpose of planning, protecting and managing the resources and land uses in the Scenic Area. The primary purpose of the legislation, as stated in the act, is "to protect and provide for the enhancement of the scenic, cultural, recreational and natural resources of the Columbia River Gorge." This management directive provides a common link with refuge management efforts in protection of natural and cultural resources. Recreation, while given equal weight in Scenic Area directives, must additionally meet the compatibility test for inclusion in refuge programs.

Public Law 100-7 (101 Stat. 418) Amendment to Public Law 99-663, approved July 11, 1987, provided in part that: “Notwithstanding the provisions of Public Law 99-663, which established the Columbia River Gorge National Scenic Area, the Pierce National Wildlife Refuge and the Little White Salmon National Fish Hatchery shall continue to be administered, operated and maintained in accordance with the provisions of the National Wildlife Refuge System Administration Act, Fish and Wildlife Coordination Act, the Fish and Wildlife Act by the U.S. Fish and Wildlife Service.

Emergency Wetland Resources Act of 1986 (Public Law 99-645; 100 Stat. 3582) This Act authorized the purchase of wetlands from the Land and Water Conservation Fund monies, removing a prior prohibition on such acquisitions.

Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543) Provides for the conservation of threatened and endangered species of fish, wildlife, and plants by Federal action and by encouraging the establishment of state programs. It provides for the determination and listing of endangered and threatened species and the designation of critical habitats. Section 7 requires refuge managers to perform internal consultation before initiating projects which affect or may affect endangered species.

Farmland Protection Policy Act of 1981 (7 U.S.C. 4201) The purpose of Public Law 97-98 is to minimize the extent to which Federal programs contribute to the unnecessary conversion of farmland to nonagricultural uses. For the purpose of the law, federal projects include construction projects and the management of federal lands.

Federal Noxious Weed Act of 1990 (7 U.S.C. 2801-2813) The Secretary of Agriculture has the authority to designate plants as noxious weeds by regulation. The Secretary of Agriculture is authorized to cooperate with other Federal, State and local agencies, farmers associations and private individuals in measures to control, eradicate, prevent, or retard the spread of such plants. The Act requires each Federal land-managing agency to: designate an office or person adequately trained in managing undesirable plants species to develop and coordinate a program to control such plants on the agency's land; establish and adequately fund this plant management program through the agency's budget process; complete and implement cooperative agreements with the States regarding undesirable plants on agency lands; and establish integrated management systems to control or contain undesirable plants targeted under the cooperative agreements.

Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a-742j) Under this Act, the Secretary of the Interior is authorized to take such steps as may be required for the development, advancement, management, conservation and protection of fish and wildlife resources including, but not limited to, research, development of existing facilities, and acquisition by purchase or exchange of land and water or interests therein.

Fish and Wildlife Coordination Act of 1958, as amended (16 U.S.C. 661-667e) The Act requires consultation with the Fish and Wildlife Service and the state fish and wildlife agencies where the "waters of an stream or other body of water are proposed or authorized, permitted or licensed to be impounded, diverted ... or otherwise controlled or modified" by any agency under Federal permit or license.

Lacey Act of 1900, as amended (16 U.S.C. 667e, 701; 18 U.S.C. 42-44) This Act provides that the responsibilities of the Department of Interior include preservation, distribution, introduction, and restoration of game birds and other wild birds. It authorizes regulations for the introduction of American or foreign “birds or animals” into new locations and provides criminal penalties for the interstate transport of wildlife taken in violation of state, Federal, or foreign laws.

Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460L 4-11) This act provides funding through receipts from the sale of surplus Federal land, appropriations from oil and gas receipts from the outer shelf, and other sources for land acquisition under several authorities.

Migratory Bird Conservation Act of 1929 (16 U.S.C. 715 et seq.) Established a Migratory Bird Conservation Commission to approve areas recommended by the Secretary of the Interior for acquisition with Migratory Bird Conservation Funds. The role of the Commission was expanded by the North American Wetland Conservation Act to include approving wetlands acquisition, restoration, and enhancement proposals recommended by the North American Wetlands Conservation Council.

Migratory Bird Hunting and Conservation Stamp Act of 1934 (16 U.S.C. 718-718j) Also commonly referred to as the “Duck Stamp Act,” requires waterfowl hunters to possess a valid Federal hunting stamp. Receipts from both the sale of the stamp and funds appropriated under the Wetlands Loan Act are deposited into the Migratory Bird Conservation Fund. Under the provisions of the Migratory Bird Conservation Act the Secretary can use Migratory Bird Conservation Funds for the acquisition of migratory bird refuges.

Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712). Except as allowed by special regulations, this Act makes it unlawful to pursue, hunt, kill, capture, possess, buy, sell, purchase, or barter any migratory bird, including the feathers or other migratory bird parts.

National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) National Environmental Policy Act (NEPA) is law intended to promote efforts which will prevent or eliminate damage to the environment. Federal agencies proposing actions which may have a significant effect on the human environment must utilize a systematic and interdisciplinary approach defined in NEPA guidelines for planning and decisionmaking. As mandated by law and Fish and Wildlife Service Policy, both this CCP and actions proposed by the CCP will be NEPA compliant. Integration of NEPA procedures into the CCP process have included the following steps: notification of the public, public scoping, identification of key issues, development of a reasonable range of alternatives, identification of a proposed action, assessment of the effects, preparation of draft CCP/EA, public review and comment, response to substantive comments, preparation of a final CCP/EA, identification of a preferred alternative, a Finding of No Significant Impact, public notification and public involvement throughout the process.

National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd-668ee) Prior to 1996, there was no single Federal law that governed the administration of the various wildlife refuges that had been established. This Act defines the National Wildlife Refuge System and authorizes the Secretary of the Interior to permit any use of an area provided such use is compatible with the major purpose(s) for which the area was established.

National Wildlife Refuge System Improvement Act of 1997. (16 U.S.C. 668dd et seq.) This Act amends the National Wildlife Refuge System Act of 1966 and reiterates into law Executive Order 12996.. This Act defines the mission of the National Wildlife Refuge System, establishes the legitimacy and appropriateness of six priority ‘wildlife-dependent’ public uses, establishes a formal process determining ‘compatible uses’ of System lands, identifies the Secretary of the Interior as responsible for managing and protecting the System, and requires the development of a conservation plan for each refuge.

Pacific Northwest Electric Power Planning and Conservation Act of 1980 (P.L. 96-501, 94 Stat. 2697). Stated purposes of the Act address not only the provision of reliable power to the Pacific Northwest, but also the safekeeping of the environment in which power is generated. More specifically, one of the primary purposes of the Act is: "to protect, mitigate and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries, particularly anadromous fish which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other power generating facilities on the Columbia River and its tributaries."

Refuge Recreation Act of 1962, as amended (16 U.S.C. 460k-460k-4) Authorizes the Secretary of the Interior to administer refuges for recreational use when such use does not interfere with the primary purpose of the area. Also authorizes the charging of fees for public use.

Refuge Revenue Sharing Act of 1935, as amended (16 U.S.C. 715s) Provides for the sharing with counties of revenues from areas administered by the Service.

Second Supplemental Appropriations Act of 1984 (Public Law 98; 98 Stat.1422). Approved August 22, 1984 this Law authorized the Corps of Engineers to acquire and transfer property to the Fish and Wildlife Service as mitigation for the construction of the second powerhouse and locks at Bonneville Dam.

Federal Executive Orders

Executive Order 11988, Floodplain Management. Agencies shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring and managing of Federal lands; (2) provide Federally undertaken, financed, or assisted construction and improvements; (3) conducting Federal activities and programs affecting land use, including water and related land resources planning.

Executive Order 11990, Protection of Wetlands. Agencies shall provide leadership and shall take action to minimize the destruction, loss of degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out its responsibilities for (1) acquiring and managing of Federal lands; (2) provide Federally undertaken, financed, or assisted construction and improvements; (3) conducting Federal activities and programs affecting land use, including water and related land resources planning.

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations. This Executive Order requires all federal agencies to analyze environmental effects on minority and low-income communities.

Executive Order 12962, Recreational Fisheries. Agencies shall, to the extent permitted by law and where practicable, and in cooperation with States and Tribes, improve the quantity, function, and sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities.

Executive Order 12996, Management and General Public Uses of the National Wildlife Refuge System. See National Wildlife Refuge Improvement Act of 1997.

Executive Order 13112, Invasive Species. Federal agencies whose actions may affect the status of invasive species shall to the extent practicable and permitted by law, subject to availability of appropriations, use relevant programs and authorities to: prevent the introduction of invasive species, detect and respond rapidly to and control populations of such species in a cost effective and environmentally sound manner, accurately monitor invasive species, provide for restoration of native species and habitat conditions, conduct research to prevent introductions and to control invasive species, and promote public education on invasive species and the means to address them.

Executive Order 13186, Responsibilities of Federal Agencies To Protect Migratory Birds. Executive Order 13186 directs departments and agencies to take certain actions to further implement the Migratory Bird Treaty Act. Specifically, the Order directs Federal agencies, whose direct activities will likely result in the take of migratory birds, to develop and implement

a Memorandum of Understanding (MOU) with the FWS that shall promote the conservation of bird populations. The EO directs Federal agencies to consider the impacts of their activities especially in reference to birds on the FWS' list of Birds of Conservation (Management) Concern, and incorporate conservation recommendations and objectives in the North American Waterbird Conservation Plan, the United States Shorebird Conservation Plan, the North American Waterfowl Management Plan, and the bird conservation plans developed by Partners in Flight into agency planning..

Washington State Acts and Laws

Shoreline Management Act. (RCW 90.58). The primary intent of the Shoreline Management Act is “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.” The Act establishes a broad policy giving preferences to uses that protect the quality of water and the natural environment, depend on proximity to shoreline and increase recreational opportunities for the public along shorelines. The Act regulates alteration of wetlands associated with shorelines of the state, defined as lakes 20 acres or greater in size, streams with flows over 20 cubic feet per second, and all lands within 200 feet of shorelines of the state (ordinary high-water mark), plus associated marshes, bogs, and swamps.

Growth Management Act of 1990. (RCW 36.70A.050). Requires each city and county with a population of more than 50,000 to develop plans that designate and protect “critical areas,” including wetlands.

Hydraulics Code. (RCW 79.09). Protects fish habitat, including wetlands, within ordinary high water mark of marine waters, lakes, ponds, and streams.

Forest Practices Act. (RCW 79.09). Regulates forest practices in certain types of forested wetlands.

OTHER GUIDING DOCUMENTS

Fulfilling the Promise (1999). A report on the National Wildlife Refuge System involving teams of Service employees, who examined the System within the framework of Wildlife and Habitat, People, and Leadership. The report is a reflection on where the System has been, a review of the present, and a vision for the future. It defines a philosophy and culture of management that honors the past but looks optimistically forward to the future. The report lists vision statements and recommendations for the System to be well on its way to fulfilling its promise for wildlife, habitat, and people through effective leadership by the System’s 100th Anniversary in 2003.